

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES L. STEVENSON,
Plaintiff,
v.
PRATT, et al.,
Defendants.

Case No. [17-cv-00336-SI](#)

**ORDER DENYING REQUEST FOR
CONTINUANCE AND COUNSEL**

Re: Dkt. No. 27

Plaintiff has filed a document in which he requests appointment of counsel to do discovery for him and a continuance of defendants' summary judgment motion until such discovery is completed. Docket No. 27.

A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.* Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident. The claims presented do not appear to have a high likelihood of success on the merits and plaintiff has not shown a difficulty articulating his claims. Like many other unrepresented prisoner-plaintiffs, plaintiff appears capable of prosecuting his own action and doing his own discovery. The motion for appointment of counsel is DENIED. Docket No. 27.

The court will not indefinitely continue the motion for summary judgment for discovery. Plaintiff has not described his discovery efforts, if any, in the eight months since the court

1 authorized the parties to engage in discovery, *see* Docket No. 9 at 8, or in the two months since
2 defendants filed their motion for summary judgment. He also has not identified any particular
3 evidence that he believes he will find in discovery to enable him to withstand defendants' motion
4 for summary judgment. The motion for a continuance is DENIED. Docket No. 27.

5 The court now extends the deadline for plaintiff to file his opposition to the motion for
6 summary judgment. Plaintiff must file and serve his opposition to the motion for summary
7 judgment no later than **August 13, 2018**. No further extensions of this deadline should be
8 expected because, by the time it arrives, plaintiff will have had four months to prepare his
9 opposition. Defendants must file and serve their reply brief, if any, no later than **September 10,**
10 **2018.**

11 **IT IS SO ORDERED.**

12 Dated: June 28, 2018

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14 SUSAN ILLSTON
15 United States District Judge
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